

# **CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY**

## **INITIAL STATEMENT OF REASONS**

### **ADOPT Sections 9071 through 9074 Title 4, Division 12, Chapter 3 California Code of Regulations**

## **INTRODUCTION**

### **SPECIFIC PURPOSE OF THE REGULATORY ACTION**

The California Educational Facilities Authority (“CEFA” or “Authority”) is organized and operating pursuant to Sections 94100 through 94216.11 of the California Education Code (the “Act”). Ch 318, Statutes of 2005 (Assembly Bill 961), amended the Act to add Education Code Section 94103. Effective January 1, 2006, the Act requires not-for-profit corporations to obtain approval from CEFA before applying for an allocation of a portion of the state ceiling to issue qualified scholarship funding bonds through the California Debt Limit Allocation Committee (CDLAC) for the state’s Student Loan Program. The proposed regulatory action will implement the selection criteria that the Authority must consider when determining whether a not-for-profit corporation is eligible to apply for a portion of the CDLAC allocation as described above.

### **RATIONALE FOR THE ADOPTION OF THE PROPOSED REGULATIONS**

In 1981, the Legislature established the California Student Loan Authority (CSLA) to create a secondary market for federally insured student loans that would ensure access to low cost loans for California students. In 1995, with the need for a state operated secondary market already being met by not-for-profit corporations and other private sector financing mechanisms, the Legislature sought to merge CSLA’s functions into CEFA. Ch 917, Statutes of 1995 (Assembly Bill 1920) effected this merger and was chaptered in October 1995 with its provisions becoming effective on January 1, 1996. As a result of this legislation, the CSLA was abolished.

A prior function of CSLA was to approve requests made by private not-for-profit corporations for authorization to issue tax-exempt private activity bonds to finance the acquisition of student loans. Prior to the establishment of CSLA, any political subdivision in California had the authority to approve such requests. This approval function of CSLA was inexplicably omitted from the 1995 legislation merging CSLA’s functions into CEFA, which inadvertently allowed local jurisdictions to once again become key players in the administration of the state’s Student Loan Program. The recent addition of Section 94103 to CEFA’s Act was necessary in order to restore the state’s exclusive administration of its Student Loan Program.

CDLAC was statutorily created to implement Section 1301 of the Federal Tax Reform Act and Section 146 of the Internal Revenue Code, which imposes a limit on the amount of tax-exempt private activity bonds that a state may issue in a calendar year (i.e. the annual state ceiling). Agencies and organizations authorized to issue tax-exempt activity bonds or mortgage credit certificates must receive an allocation from CDLAC. CDLAC's primary responsibilities include setting the annual state ceiling at the beginning of each calendar year with the sole authority to allocate the state ceiling among various state and local issuers.

The addition of the proposed regulations implements Education Code Section 94103 by establishing criteria for the Authority's consideration and by requiring not-for-profit corporations to submit documentation to demonstrate whether they meet such criteria. The proposed criteria are developed based on staff experience in consultation with CDLAC staff and representatives in the student loan industry.

#### **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No other alternatives were presented to or considered by the Authority. The addition of the regulation is necessary to conform the regulation to the statute, as amended.

#### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The Authority has not identified any alternatives nor have any alternatives otherwise been identified and brought to the attention of the Authority that would lessen any adverse impact on small businesses.

#### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

There is no known identifiable economic impact to lenders in determining their eligibility to apply for an allocation of a portion of the state ceiling for the state's Student Loan Program.